

COUNCIL

Management of Interests policy

Meeting: 11 May 2016

Status: for decision

Lead responsibility: Nicola Ebdon (Head of Governance)

Paper author: Lisa Harmshaw (Governance Manager)

Council Champion: Gareth Hadley

Purpose

1. This paper presents the draft Management of Interests policy (attached at annex one) for approval by Council.

Recommendations

2. Council are asked to:
 - 2.1. **note** the contents of this paper; and
 - 2.2. **approve** the Management of Interests policy for the purposes of 12 month trial to begin 1 June 2016.

Strategic Objective

3. This work forms part of the Governance work programme in our 2016/17 business plan, specifically "Governance Framework – developing and embedding governance policies and processes". This supports our strategic objective of "Organisational change – building a sustainable and modern organisation".
4. The Audit and Risk Committee (ARC) terms of reference require the Committee to "*review the adequacy of and changes to the Management of Interests policy ensuring it is effective and consistent with Council's view and providing assurance as to its appropriateness and robustness before recommending their approval by Council.*" The ARC met on 25 April 2016 to review the policy.

Risks

5. The following risks feature on the Governance risk register but do not score highly enough to be included on the Corporate risk register:
 - 5.1. A1.03 - We are not aware of all the individuals who work with us as Members. There is a Governance risk of not meeting our legal responsibilities, a legal risk of not publishing accurate lists of members interests and an external risk of suffering reputational damage. This work is ongoing. The Management of Interests policy will apply to employees

and members¹, therefore it is important to conclude this work in order to ensure that all who work with us are either subject to this policy regarding management of their interests, or required to sign a consultancy contract/agreement which includes reference to declaring relevant interests (if not an employee or member);

- 5.2. A1.07 - Lack of indemnity provided to GOC trustees (including GOC employees who fit the statutory definition of a trustee. It is important to note that the GOC is unincorporated and therefore there is no limited liability available for the trustees. Failure to act properly where there is a conflict of interest is a breach of the trustee's legal responsibilities. The trustees are jointly and severally liable, meaning that if the GOC were to face legal action as a result of a conflict of interest in relation to a decision or contract, this would be directed against the trustees (either as a whole or individually). Whilst this risk may be considered low it has implications for reputational damage and significant personal liability for trustees. Work to identify a way to indemnify Council members is in progress, however it is complex and will take some time to come conclude;
 - 5.3. A1.10 - Failure to govern the organisation in compliance with the legislative framework (including the Companies Act, Charities Act, Opticians Act, Committee Constitution Order, Bribery Act 2010, PIDA, Rules etc). There is a Governance risk of not meeting our legal responsibilities in relation to our governing legislation and requirements of the Charity Commission and external risk of suffering reputational damage without compliance with a management of interests process; and
 - 5.4. A1.12 - Members or employees do not comply with corporate governance policies or procedures (code of conduct, conflicts, gifts, bribery etc). There is a Governance risk of not meeting our legal responsibilities or making wrong decisions and external risk of suffering reputational damage as a result of poor governance or reputation of members. The existence of a number of different guidance documents in this area produced by different parts of the GOC at different times increases the risk of inconsistency governance practices in this area.
6. The development and embedding of the Management of Interests policy will help to mitigate risks A1.07, A1.10 and A1.12. We have made progress in mitigating risk A1.03 but there is more work to do.

Background

7. The duty to establish and maintain a Register of Interests is included in Schedule 1: Constitution of Council - Registration of members' private interests²

¹ Members are individuals who work with the GOC who are neither employees nor contractors (as defined by their contract with us).

² https://www.optical.org/en/about_us/legislation/opticians_act.cfm

*“1C.—(1) The Council must establish and maintain a system for the declaration and registration of private interests of their members; and
(2) The Council must publish in such manner as they see fit entries recorded in the register of members’ private interests.”*

8. The GOC guidance on conflicts of interest is currently contained within the Code of Conduct (the extract relating to conflicts in attached at annex three), which has not been reviewed since 2009. In addition, various separate pieces of guidance in this area have also been developed by other teams (such as within Fitness to Practise, for Case Examiners) leading to inconsistencies in advice and the recording of interests. It is intended that this policy provides guidance which should replace all other previous guidance.
9. There are a number of governance documents³ which include reference to how interests should be managed, which will need to be updated to appropriately cross reference to this policy once it has been agreed, as follows:
 - 9.1. Council meeting protocol – page 10/11;
 - 9.2. Council and Committee Appointments Process;
 - 9.3. Interim internal whistleblowing policy;
 - 9.4. Guidance for Case Examiners; and
 - 9.5. Standing Orders.
10. This policy refers to any investigations being undertaken in accordance with the GOC internal investigations policy. Such a policy has not yet been developed, but we plan to do so shortly. We have identified that a number of policies contain an investigations policy and therefore it would be advisable to have a consistent policy relating to all internal investigations – to avoid numerous and possibly confusing different investigations processes.

Analysis

11. The importance of having in place a robust management of interests policy has moved forward significantly in recent years. The focus has moved away from only declaring areas of financial benefit or advantage and more into the areas of non-financial benefit, other forms of advantage (such as in relation to appointments and contracts), loyalty and anticipatory interests and conflicts in relation to perceptions of the above.
12. The draft policy attached at annex one takes into account all of these areas. Like with other GOC governance policies, it now applies to all employees and members (whereas the current Code of Conduct⁴ only applies to members), provides firmer guidance on what interests must be declared, how and when we

³ https://www.optical.org/en/about_us/our-governance/index.cfm

⁴ https://www.optical.org/en/about_us/our-governance/index.cfm

expect our employees and members to make a declaration, how to identify and manage a conflict of interest and how we will publish interests. This is consistent with an internal audit recommendation issued for our contract and procurement policy as follows: “Develop a process for identifying potential conflicts of interest during procurement and ensure this is documented in each procurement case; consider extending the annual conflict declaration to include budget holders’.

13. We have reviewed a number of policies from our fellow healthcare regulators including the General Medical Council (GMC), Nursing and Midwifery Council (NMC), General Pharmaceutical Council (GPhC) and the General Osteopathic Council (GOsC). We have also reviewed a number of non-related policies including from the Human Tissue Authority, Public Health England and the Charity Commission.
14. We have taken into account current guidance from the Charity Commission on conflicts of interest⁵, the Good Governance code for the voluntary and community sector⁶ and guidance issued from the Institute of Chartered Secretaries and Administrators (ICSA: the governance institute) which was specifically written for charity trustees⁷.
15. Council and ARC have previously raised a number of points which they requested be considered when developing a new policy. These included:
 - 15.1. ensuring that the process is proportionate;
 - 15.2. giving thought to whether it is necessary to declare roles not relevant to optics; and
 - 15.3. providing Council with guidance as to the position if all registrant members were conflicted on a particular issue.
16. The draft policy attached at annex one addresses these points.
17. During the development of this policy it has been reviewed by SMT (21 March 2016), the Management Forum (4 April 2016) and the ARC (25 April 2016). We also sought feedback from the Council Governance Champion – Gareth Hadley.
18. The policy attached at annex one takes into account the various feedback we have received which included:
 - 18.1. the suggestion that the policy be trialled for a period of 12 months which will be used as an opportunity to engage and seek feedback from

⁵ <https://www.gov.uk/government/publications/conflicts-of-interest-a-guide-for-charity-trustees-cc29>

⁶ <http://www.governancecode.org/>

⁷ <https://www.icsa.org.uk/knowledge/resources/declaration-charity-trustees>

- employees especially (as they have not previously been subject to this policy) and members. This is recommended to Council;
- 18.2. clarification on the guidance to be provided to experts, witnesses and other advisers or consultants who are not members as to how this policy could apply to them. Those engaged with the GOC who are not identified as employees or members will have their contracts reviewed to ensure they include appropriate clauses relating to the declaration of interests;
 - 18.3. a query as to whether asking an employee or member about whether they engaged in political activity was an infringement of an individual's human rights. A recommendation to remove any questions relating to political activity was considered and agreed by the ARC in April 2016;
 - 18.4. a request that the policy make it clear that any employee or member (and also case examiners) are not able to act as a lay (i.e. non-expert) or character witness on behalf of a registrant who is to appear before the FTP Committee. There could be a perceived conflict of interest for employees or members to be a witness and to allow an employee or member to do this would impair the Council's work by removing their skills and experience from our wider activities. We therefore added this to the policy (see paragraphs 5.3(J) and 7.5.4 in the policy);
 - 18.5. clarification of when a member would be suspended if subject to FTP investigation. The policy (see paragraph 7.5.2) confirms that suspension takes effect at the point a case is referred to an FTP Committee. Disqualification, suspension and removal of Council and Committee members is explained in the Council and Committee appointments process⁸;
 - 18.6. a recommendation that members cannot be identified as an independent member' if they are a member of more than one committee and that there is a gap of two years between being an independent committee member and other members roles. This was considered by ARC in April 2016 – please refer to paragraphs 19 and 20 below; and
 - 18.7. clarification on whose interests would and would not be published and whether these were proportionate and compliant with Data Protection Act. This was considered by ARC in April 2016 – please refer to paragraphs 21 and 22 below.

Appropriate separation of roles

19. As part of the review the Executive requested the addition of paragraph 7.5.6 which states that '*members cannot be identified as an 'independent member' if they are a member of more than one committee*'. It is felt that 'independence' diminishes where an individual is a member of more than one committee and is particularly key when the member is appointed to be independent of Council and to ensure an independent perspective on Council's committees where there are no statutory committee members. In addition the Executive requested that

⁸ https://www.optical.org/en/about_us/our-governance/index.cfm

the same approach taken to Council members not being able to become a member of the GOC for a period of two years after being a Council member should apply to independent members - see paragraph 7.6.2 of the policy which states '*a gap of two years between being an independent committee member and other member roles*'. It was felt that this would ensure independent members maintained the perception of independence from Council.

20. ARC considered both of these requests at their meeting in April 2016 and recommended that both be removed from the policy as they did not consider there was a conflict (or the perception of a conflict) in either case. These are shown in track changes in annex one.

Publishing the register of interests

21. We have carefully considered which declarations should be included on the published register of interests (paragraph 9.4 in the policy) as the policy now includes all employees (including case examiners) and members.
22. A privacy impact assessment has been completed which identified that for employees below SMT level the legal requirement to keep their information private is stronger – which extends to not publishing names. For employees below SMT level (excluding case examiners) we have therefore recommended their declarations are included in a non-published register. In order to publish information on case examiners interests we will need to gain their consent. Taking this into account, ARC considered and agreed with the recommendation that:
 - 22.1. declarations for all members and members of SMT should be named and published – this is what currently happens;
 - 22.2. consent should be sought from Case Examiners to publish their interests; and
 - 22.3. those employees who declare interests but are below the level of SMT should have their interests recorded internally but this will not be published.

Impact Assessment

23. There is likely to be a positive impact on members as a result of the introduction of this policy, as they currently comply with a similar process, but with less clarity and guidance. However there is no current process for employees. It is not expected that many employees will have interests which must be declared and managed – however there is a possibility that there are and in which case this policy could lead to a change in their responsibilities. The 12 month trial will assist us in identifying any impacts on employees.
24. An impact assessment screening has been undertaken - see annex two. There are no implications in relation to GOC reserves or the budget in relation to this work. Resources will be required to explain and embed this policy from the

Governance Team. The HR team will be required to establish a process for requesting declarations from applicant employees and appointed employees and keeping these in employee files.

25. Any associated legislation or guidance and links with GOC policies is highlighted on the front cover of the policy which is attached at annex one.
26. We have undertaken an equality impact assessment which takes into account equality and diversity and human rights - this can be found in annex two.
27. In relation to sustainability, we will encourage declarations to be made via an online form (returnable by email), which will also be available via the GOC website and intranet. In addition, we will provide advice and further guidance via email which will assist in establishing an audit trail, precedents and feedback which can be used once the trial period ends.

Devolved Nations

28. There are no implications for this paper or policy in relation to the devolved nations.

Communications

29. Once approved, the trial will begin as of 1 June 2016. We intend to:
 - 29.1. send the policy via email to all employees and members and ask them to complete a 2016 declaration form (if they haven't completed one yet in 2016). We will work closely with relevant line managers/chairs where declarations made highlight an actual or potential conflict which may need to be managed. We will also develop a short guide/training tool to assist people in understanding the policy which will be used to inform employees and members during the trial;
 - 29.2. attend a meeting of each of the statutory advisory committees to talk to members about the policy, answer any questions and seek feedback during the trial;
 - 29.3. attend an all staff meeting or individual team meetings to brief employees on the draft policy, how it may affect them and the processes we have in place to manage actual or perceived conflicts of interest; and
 - 29.4. liaise with HR colleagues to implement the policy in relation to temporary and permanent recruitment as of 1 June 2016.
30. During the trial we will provide adhoc written advice and take comments and feedback on the policy which will be used to inform the final version.

Timeline for future work

31. Once approved by Council we will implement the policy from Wednesday 1 June 2016 for a 12 month trial and will implement our communications plan. A review

will be conducted that the end of the trial and a final version of the policy presented to ARC and then Council for approval in July 2017.

32. Work is already underway to develop a new Code of Conduct, which links with this policy and which will also apply to employees and members.

Attachments

Annex 1 – Management of Interests (Mol) policy

Annex 2 – Equality Impact Assessment



Management of Interests policy

Status of document:	DRAFT
Version:	1.4
Approved by:	
Date of approval:	
Effective from:	1 June 2016 for a period of 12 months
Owner:	Nicola Ebdon, Head of Governance
Author:	Lisa Harmshaw, Governance Manager
Relevant legislation:	<ul style="list-style-type: none"> • Opticians Act 1989 • Opticians Act 1989 (Schedule 1): Constitution of Council • The General Optical Council (Constitution) Order 2009 • The General Optical Council (Fitness to Practise) Rules Order of Council 2013 • Statement of Recommended Practice (SORP) (Charities) 2005 • Data Protection Act 1998
Linked policies:	<ul style="list-style-type: none"> • Allocation of Roles and Responsibilities • Code of Conduct • Conduct, Attendance and Performance (employees only) • Member complaints • Standing Orders (for Council) • Council meeting protocol • Council and Committee Appointments Process • Interim internal whistleblowing policy
Impact Assessment:	<i>(Add the web link to the impact assessment)</i>
Impact Assessment completion:	28 March 2016
Impact Assessment review:	July 2016
Next policy review date:	April 2017.
Location - Website:	<i>(hyperlinks of where the policy is published)</i>

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1. Statement

- 1.1 We are committed to ensuring well defined and transparent arrangements for managing conflicts of interest, both real and perceived, in order to demonstrate to the public and stakeholders that our decisions are made in the best interests of the public.
- 1.2 This policy supports the principles of transparency and probity to maintain confidence in the GOC and protect our employees and members from any appearance of impropriety, to ensure that those who work for and on behalf of us make decisions in the best interests of the public. This means decision making is independent, fair and free from improper influence and bias.
- 1.3 Employees and members are free to hold a range of outside personal interests including political activities and involvement, financial or otherwise with commercial, professional and other optical organisations provided that such interests do not conflict (or give rise to a conflict) with our public protection role or conflict with their role as an employee or member. However, to ensure that these personal interests do not conflict with their role, employees and members must:
 - 1.3.1 declare any relevant interests in accordance with this policy and ensure they review and update their declarations as they change, and at a minimum annually;
 - 1.3.2 not put themselves or their colleagues in a position where their duties and personal interests conflict;
 - 1.3.3 avoid making decisions or situations where they have an interest which might influence, or be perceived to influence their judgement; and
 - 1.3.4 act and be seen to act impartially and objectively.
- 1.4 We are responsible for promoting and setting standards for optometrists, dispensing opticians, optical students and optical businesses as well as making decisions about whether their fitness to practice has been impaired. Therefore our conduct both as an organisation and as individuals must reflect the same high standards.
- 1.5 Our approach to managing interests is undertaken in a staged manner as follows:
 - 1.5.1 consider whether you (or a connected person) have any actual or potential interests;
 - 1.5.2 declare any actual or potential interests which are connected to the GOC;
 - 1.5.3 identify whether each declared interest is (or could be viewed by others as) a conflict;
 - 1.5.4 determine how any identified conflicts of interest will be managed; and

1.5.5 review your interests regularly.

2. Purpose

2.1 This policy provides guidance on:

2.1.1 what interests must be declared;

2.1.2 how and when to declare interest(s);

2.1.3 how to identify and manage a conflict of interest; and

2.1.4 how we will publish interests.

3. Scope

3.1 This policy applies to employees and members and to individuals making an application to become an employee or member.

3.2 For the vast majority of our employees and members, it is unlikely that a conflict of interest will occur. Therefore employees and members will only need to be aware of this policy and know what to do should they hold a declarable interest and that interest conflicts with their duties. Those most likely to be affected are our trustees, those in more senior roles with public facing responsibilities (SMT), those who exercise our statutory decision making powers as set out in the GOC Scheme of Delegation (such as case examiners, some committees and Council), or those roles authorised to procure services on behalf of the GOC.

3.3 As the GOC's trustees, Council members have a legal duty to act only in the best interests of the GOC and must not put themselves in any position where their duties as a trustee may conflict with any personal interest.

3.4 It is not possible to anticipate every situation that might arise when a personal interest could conflict with the duties of an employee or member – consequently this policy must retain a degree of flexibility in order to allow the exercise of judgment in individual cases.

4. Glossary of terms

4.1 The following terms are used in this policy:

4.1 **Conflict of interest:** Any situation in which an employee or members personal interests, could or could be seen to, prevent them from making a decision in the best interests of the GOC (ultimately in protecting the public), including where the loyalty or duty of an employee or member to another person or organisation could prevent them from making a decision in the best interests of the GOC (known as a conflict of loyalty).

4.2 **Connected person:** family, relatives or business partners of employees or members, as well as businesses in which they have an interest through ownership or influence. This includes: spouse, partner, adult children, siblings, grandchildren and grandparents.

- 4.3 **Employees:** Permanent or temporary employees, contractors or consultants working with the GOC.
- 4.4 **FTP:** fitness to practise.
- 4.5 **Members:** individuals who work with the GOC who are neither employees nor contractors (as defined by their contract with us).
- 4.6 **Optical Education Institution (OEI):** undergraduate optical education providers that are currently accredited by the GOC or seeking/anticipating seeking GOC accreditation, or providers of post-graduate or Continuing Education and Training (CET) in optics.
- 4.7 **Optical sector:** Includes optical education, businesses, organisations, optical services, charities and NHS bodies.
- 4.8 **Senior Management Team (SMT):** includes the Chief Executive and Registrar, the Director of Strategy, the Director of Resources and the Director of Fitness to Practise (FTP).
- 4.9 **Trustee benefit:** Any instance where money or other benefit which has a monetary value is received by Council members (the GOC's trustees), excluding expenses.
- 4.10 **User trustee:** Any trustee who makes use, as a beneficiary of the equipment, facilities, services or support provided by the GOC – i.e. registrant Council members.

5. What interests must be declared?

- 5.1 There are a number of different types of interest:
 - 5.1.1 Direct – interests with direct relevance to specific items of business such that a fair minded observer, having considered the facts, would conclude that there was a real possibility that the individual could be influenced in any discussion or decision;
 - 5.1.2 Indirect – interests which do not directly relate to specific issues for discussion or to individuals personally;
 - 5.1.3 Anticipatory – interests where actions may be perceived to put an individual in a more favourable position in relation to another party or where the interest has not yet fully materialised;
 - 5.1.4 Loyalty – interests which may arise in respect of another person or organisation with which there is a personal or professional relationship which may influence judgment or actions, or could be perceived to do so; and
 - 5.1.5 Prejudicial – interests where actions could be perceived to prejudice judgment and/or decision making.
- 5.2 Employees and members have a personal responsibility to identify the interests they have and declare to the GOC any which:
 - 5.2.1 are relevant to their role and/or duties at the GOC or could be perceived to be relevant; and

5.2.2 could affect or be perceived to affect their judgment, actions or decisions taken as part of their role. Annex one provides some helpful examples when considering which interests employees and members might have.

5.3 Employees and members should ask themselves the following questions in relation to current interests or interests which they have held previously but which are likely to have the perception of conflicting with their role at the GOC. If the answer is 'yes' to any of the questions you must answer yes in the declaration form and provide information on the interest:

- A. in addition to your employee or member contract do you (or a connected person) have a contract with the GOC as an employee or member or a contract to provide services to the GOC?
- B. do you (or a connected person) have any close personal ties with GOC employees, members or advisors?
- C. are you (or a connected person) employed, were previously employed or hold a position of professional practice (inc. paid and unpaid) in an organisation in the optical sector?
- D. are you (or a connected person) employed as a consultant, director or advisor by an organisation which advises the GOC or organisations/ individuals in the optical sector?
- E. do you (or a connected person) own (or have significant control over) any organisation in the optical sector?
- F. do you (or a connected person) hold any shareholdings or investments of any company either regulated by the GOC or contracted to work with the GOC?
- G. do you (or a connected person) hold office, are appointed to a position in, are a member of or affiliated to a professional body, specialist society, charity or other regulator etc related to the optical sector (i.e. ABDO, AOP, BCLA, FODO, FLMA, royal colleges, Worshipful Company of Spectacle Makers, Tribunals, Ombudsmen etc.)?
- H. do you (or a connected person) hold office, are appointed to a position in, are a member of or affiliated to a professional body, specialist society, charity or other regulator etc related to your role (i.e. Solicitors Regulation Authority, Financial Conduct Authority, CIPD, ICSA etc.)?
- I. are you (or a connected person) associated with an educational institution which is currently accredited by the GOC (or is anticipating applying for accreditation) – including UK, overseas and online providers?
- J. are you (or a connected person) acting as a lay/non-expert character witness on behalf of a registrant who is appearing before the GOC Fitness to Practice (FTP) Committee?
- K. are you (or a connected person or organisation in which you are a Responsible Officer) subject to investigation by the GOC relating to FTP concerns which have been referred to the FTP Committee?

- L. are you (or a connected person or organisation in which you are a Responsible Officer) subject to investigation by a professional body relating to disciplinary processes?
 - M. do you (or a connected person) hold any other interest which may be relevant and not covered by the above which might lead a fair-minded observer, having considered the facts, to conclude that there was a real possibility that such an interest might influence your judgment?
- 5.4 For each declarable interest employees and members must declare:
- 5.4.1 whether the interest is theirs or the interest belongs to a connected person (family, relative or business partner) – providing their name;
 - 5.4.2 the name of the organisation;
 - 5.4.3 the position held;
 - 5.4.4 the level of shareholding / investment (if relevant);
 - 5.4.5 the date the interest started; and
 - 5.4.6 any previous interest which is still applicable.
- 5.5 Where the answer to the questions in 5.3 are no, employees and members should complete a declaration confirming no for each question. However they should keep the interest in mind should it need to be declared in the future if circumstances change. For example the GOC may procure the services of a company in which an interest is held. Employees and members must declare the interests of connected persons where these interests are known.
- 5.6 If employees and members are not sure whether the answer to the questions in 5.3 is a yes or no – they should seek guidance from the Governance Team governance@optical.org. If in doubt employees and members should be open in declaring the issue and discussing it.

6. How and when to declare interests

- 6.1 When making an application for a role as an employee or member, applicants should declare on the application form (or in a covering letter if there is no application form) any interests they hold which must be declared under this policy.
- 6.2 On appointment all employees and members should complete a declaration form (attached at Annex two) with details of any interests they hold which must be declared under this policy. Employees should provide the declaration form to HR and if they are a member of the SMT, Head of Department, case examiner, budget holder or if their role includes authority to exercise a statutory decision making power as set out in the GOC Scheme of Delegation, they should advise the Governance Team so that their interest can be entered onto the Register of

Interests and a decision made on how the interest will be managed. Members should provide the form to the Governance Team.

- 6.3 If any new interests arise or employees/members become aware of an interest held by a connected person, which must be declared under this policy, they should be notified to HR/the Governance Team as soon as possible using the form at annex two.
- 6.4 Employees and members have a personal responsibility to review business and operational plans and forward plans for meetings to identify any situations in which their interests may conflict with their duties, and advise the Governance Team of any potential conflicts which have not already been identified, to enable a decision to be made on how the interest will be managed.
- 6.5 If a non-declared interest is identified at the point at which it is in conflict with an employee or members duties, the employee/member should declare it immediately to their line manager/Chair and then to HR/the Governance team as soon as possible by completing the declaration form (attached at Annex two). This could happen at the point at which papers are received, including meeting papers, case files, hearings notice or contract/tender documents. If this happens the employee/member should not continue to read, discuss, make any decisions or attempt to influence others in relation to the conflicted issue until a decision has been made as to how to manage the interest.
- 6.6 Additionally, when an employee or member holds an interest which is in conflict with items being discussed at meetings/hearings they must formally declare their interest at the start of the meeting, or as soon as the conflict of interest is recognised.
- 6.7 The declarations should be reviewed regularly (at a minimum, annually) to ensure they remain up to date.

7. How to identify and manage a conflict of interest

- 7.1 A conflict of interest arises where a personal interest or loyalty might influence, or be perceived to influence, their judgement, actions or decisions. In UK law, the legal test for bias is where “*a reasonable, fair-minded and informed observer would conclude that there is a real possibility that an individual’s judgement, actions or decision-making is or could be biased because of a particular interest*”.
- 7.2 Conflicts of interest usually arise where either:
- 7.2.1 there is a potential financial or measurable benefit to the employee, member or connected person; or

- 7.2.2 the employee's/member's duty to the GOC competes with a duty or loyalty they owe to another organisation or person.
- 7.3 Interests which are declared as part of an application for a role as an employee or member will be fully explored by the selection panel at shortlisting and interview stage. Applicants will be given an opportunity to propose how they would manage or eliminate a conflict should they be offered appointment.
- 7.4 All declared interests by employees and members will be reviewed by the employee's line manager/relevant Council/committee Chair and the Head of Governance, in conjunction with the employee/member to consider whether it is a possible conflict and agree how the interest will be managed. A decision on how the interest will be managed will be communicated to the employee or member and recorded in their HR/Governance file. Where an employee or member disagrees with the outcome on how to manage their interest they should refer this to the Head of Governance who will consider any points raised with the relevant Director/Chair of Council.
- 7.5 It is possible that certain interests will not be manageable and will need to be removed, for example giving up the conflicting interest as a condition of appointment, resignation or a permanent change in decision making responsibilities. This could be where the conflicting interest includes a competing legal obligation to another organisation or person, where the decision is viewed as significant, controversial or high risk, where the existence of the conflict would be seen to significantly affect the decision making process, or where the conflict will arise so frequently it would undermine effective decision making. Interests that are likely to require the conflicting interest to be removed include:
- 7.5.1 individuals cannot be an employee and a member e.g. case examiners cannot be a member on an advisory committee;
 - 7.5.2 individuals must be suspended from office as a member if they are subject to investigation by the GOC or other professional body in relation to fitness to practice concerns which have been referred to the GOC FTP Committee/disciplinary committee;
 - 7.5.3 members cannot be on Council or a statutory advisory committee and on the hearings panel or the Investigations Committee;
 - 7.5.4 employees and members cannot act as a lay/non-expert character witness on behalf of a registrant who is appearing before the GOC Fitness to Practice (FTP) Committee; and
 - 7.5.5 employees and members cannot provide references for individuals applying to be an employee or member.
- ~~7.5.6 members cannot be identified as an 'independent member' if they are a member of more than one committee.~~

- 7.6 In order to ensure that there is an appropriate separation between roles the GOC may decide that there should be period of time between an employee/member leaving one role and taking on another. Roles that require separation by a period of time include:
- 7.6.1 a gap of two years between being a Council member and other roles which are listed as one a Council member is not able to hold; ~~and~~
- ~~7.6.2 a gap of two years between being an independent committee member and other member roles.~~
- 7.7 There may be situations where a decision is made to go ahead with a decision affected by a serious conflict of interest, or where a significant proportion of the decision makers are conflicted. In such situations the decision making body should seek authority from the body to which it reports, unless the benefit has been authorised in advance or in governing documents. For example the Education committee should seek authority from Council, and Council should seek authority from the Charity Commission, unless they are able to demonstrate clearly how the decision was made in the best interests of the GOC.
- 7.8 Usually interests can be managed, which could include:
- 7.8.1 being asked to provide any information necessary to help decision makers to make a decision in the best interests of the GOC;
- 7.8.2 leaving a meeting for the discussion and decision, or just the decision;
- 7.8.3 receiving redacted minutes and papers or not receiving papers or other related material;
- 7.8.4 being unable to form part of a quorum (during a meeting); and/or
- 7.8.5 agreeing an alternative decision maker.
- 7.9 Where the decision relates to a potential financial or measurable benefit to the employee, member or connected person (not where the benefit arises as a user trustee) the conflict of interest must be managed by ensuring that the conflicted employee or member withdraws from the meeting for the discussion and decision and does not take any part in subsequent discussion or decision making on the issue.
- 7.10 There may be instances where despite there being a conflict of loyalty it is appropriate for an employee or member to continue to take part in a decision where the risk is negligible and that having their involvement in the discussion or decision would be in the best interests of the GOC. In these circumstances this will be agreed as the way in which the interest should be managed and employees/members will be notified.
- 7.11 If an interest is identified and declared at a meeting, where the interest could be in conflict with an issue being discussed/decided, it is the responsibility of the

Chair of the meeting to determine, with the other members present, whether the interest is or could be perceived to be a conflict and how it should be managed, taking into account any previous decisions on how the conflict of interest should be managed. It is always recommended that if there is any uncertainty as to the level of the conflict or the risk of the decision being made, the employee or member does not take part in the discussion or decision until the full facts of the interest can be established and an appropriate way to manage the interest agreed. In such circumstances the Chair must ensure all relevant factors are taken into account and explain the agreed approach if asked.

8. Compliance

- 8.1 Compliance with this policy is mandatory. Instances where interests which are in conflict with a role are not declared and managed in accordance with this policy will be taken seriously. Non-compliance for employees may be considered to be gross misconduct (and could result in summary dismissal) as stated in paragraph 5.2 of the Conduct, Attendance and Performance policy. Non-compliance for members is a breach of the terms of appointment which could result in removal from office.
- 8.2 Council members, as our trustees, could be held legally liable if they fail to identify and declare any conflicts and therefore fail to comply with their personal legal responsibility to avoid conflicts of interest and act only in the interests of the GOC.
- 8.3 All employees and members are encouraged to speak up if they suspect that a member or employee has not complied with this policy. Concerns regarding undeclared interests should be reported to a line manager/Director/Chair as well as the Head of Governance and will be investigated in accordance with the GOC internal investigation policy.
- 8.4 All concerns raised in relation to this policy will be reported to the Audit and Risk Committee in the quarterly exceptions report, irrelevant of whether they are founded or not.

9. Transparency

- 9.1 The interests declared by applicants will be kept confidential by HR (employees) and Governance (members) and only shared with individuals involved in the selection process. Applicants not offered a role will have their declaration destroyed six months after the position has been filled.
- 9.2 The interests declared on appointment will be kept by HR (employees) and Governance (members) and shared with individuals identified in this policy for the purpose of considering whether it is a possible conflict, agreeing how the

interest will be managed and recorded on the Register of Interests. Declarations and associated decisions on how the interest will be managed held in HR/governance files will be destroyed two years after the employee/member has left the GOC.

- 9.3 The interests declared by members and employees will be entered onto a Register of Interests.
- 9.4 In order to ensure transparency in our arrangements for managing conflicts of interest, to demonstrate to the public and stakeholders that our decisions are made in the best interests of the public we will publish and maintain a Register of Interests on the GOC website, which will include the interests held by:
- 9.4.1 all members;
 - 9.4.2 the SMT; and
 - 9.4.3 case examiners.
- Interests held by other employees will remain on the Register of Interests held internally, which will not be published.
- 9.5 In order to ensure transparency in our decision making, the details of interests which are in conflict with items being discussed at meetings/hearings must be formally recorded in the minutes of the meeting, including the nature of the conflict, who was affected, whether the conflict of interest was declared in advance, a description of how the interest was managed and how the decision taken was in the best interests of the GOC.
- 9.6 The Register of Interests will be used annually to prepare calculations of payments made to Council and SMT members and connected persons in accordance with the related party transactions rules. These payments are published in our annual report.
- 9.7 Any concerns raised in relation to compliance with this policy will be kept confidential in accordance with the GOC internal investigations policy and reported to the Audit and Risk Committee. The identity of the person who raised the concern will be kept confidential.

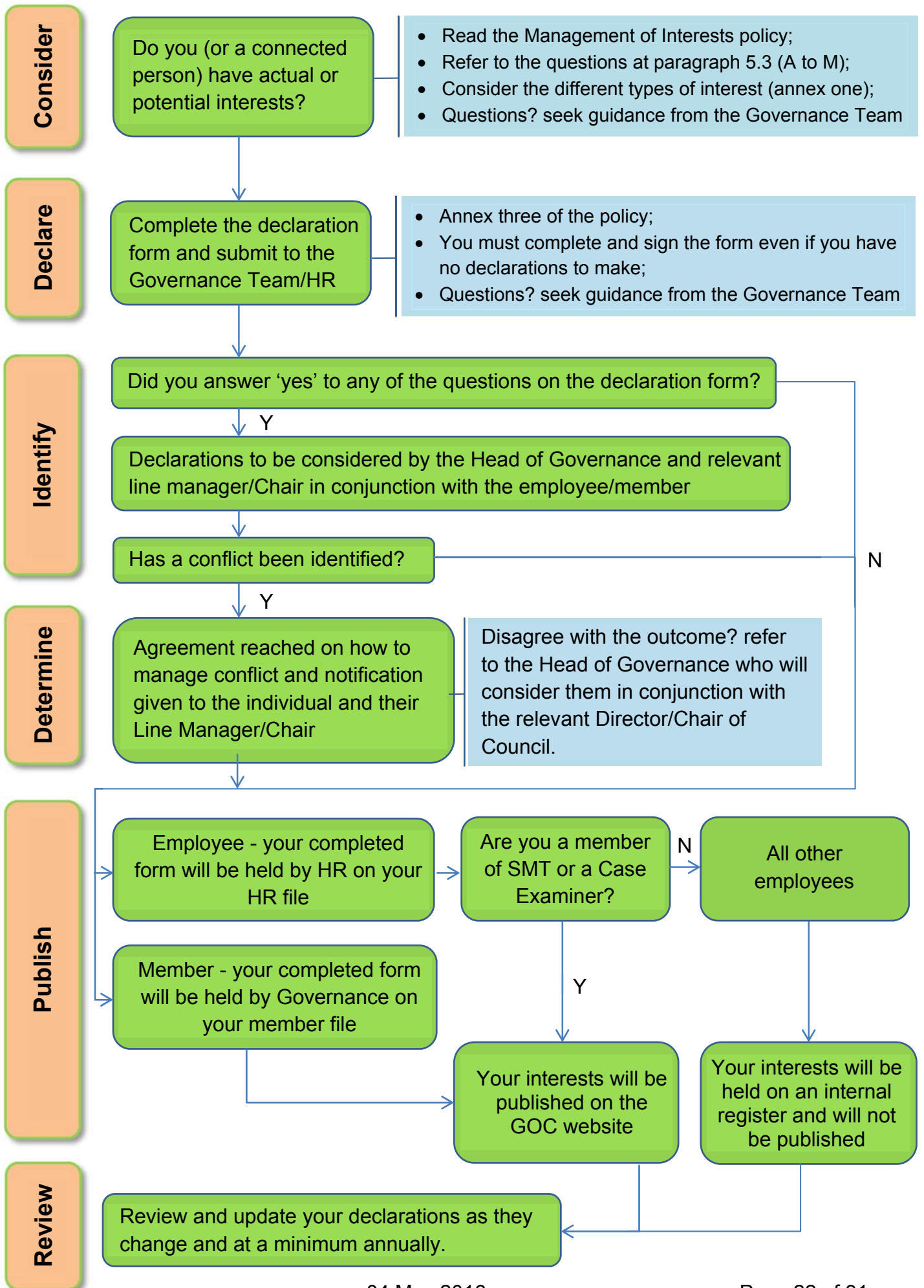
10. Annexes

- 10.1 The following appendices are attached to this policy:
- Appendix one: types of interest
 - Appendix two: process flowchart
 - Appendix three: declaration form

11. Appendix 1: types of interest

Type of Interest	Examples
Indirect: interests which do not directly relate to specific issues for discussion or to individuals personally.	<ul style="list-style-type: none"> • where your personal benefit is minimal (i.e. a payment to a spouse or partner); and/or • where the benefit is universal to all relevant groups (i.e. expenses limits) .
Direct: interests with direct relevance to specific items of business such that a fair-minded observer, having considered the facts, would conclude that there was a real possibility that the individual was biased in any discussion or decision.	<ul style="list-style-type: none"> • direct personal financial gain or benefit via remuneration, contracts, purchasing and tendering; • involvement in recruitment or appointment of a colleague, friend or relative; • influencing decisions for your own advantage or because you know someone who uses the GOC's services (or those which it regulates) and/or • influencing the award of a contract where you are connected to any tenderer/applicant and/or carrying out business on behalf of the GOC with your own or a connected persons company.
Anticipatory: interests where actions may be perceived to put an individual in a more favourable future position in relation to another party or where the interest has not yet fully materialised.	<ul style="list-style-type: none"> • working for an OEI who is considering seeking GOC accreditation; • applying / being shortlisted for a role or contract which could impact on your GOC role; and/or • being involved in decision-making which could have a favourable impact on you as a result of another position you hold
Loyalty: interests which may arise in respect of another person or organisation with which there is a personal or professional relationship which may influence judgement or actions, or could be perceived to do so.	<ul style="list-style-type: none"> • holding a role in an organisation with a different purpose to the GOC and being a Council/Committee member; • membership of a professional body, specialist society or optical charity which holds differing views on GOC policy; and/or • being a GOC trustee and a member where there are legal duties which may conflict
Prejudicial: interests where actions could be perceived to prejudice judgment and/or decision making.	<ul style="list-style-type: none"> • being a member of a Hearings Panel where you know the defendant or have publically commented on their work previously; • providing advice on an issue where you have expressed a strong personal belief about an organisation's practices (i.e. when someone could perceive you as not being able to approach a matter with an open mind); and/or • having prior knowledge of an individual's conduct.

12. Appendix 2: process flowchart



13. Appendix 3: Declaration of Interests form

Name: _____

I am a : Choose an item.

I am a member of the following: and and

A. Do you (or a connected person) have a contract with the GOC as an employee or member or a contract to provide services to the GOC?	Choose an item.
Please declare the interest here:	

B. Do you (or a connected person) have any close personal ties with GOC employees, members or advisors?	Choose an item.
Please declare the interest here:	

C. Are you (or a connected person) employed, were previously employed or hold a position of professional practice (inc. paid and unpaid) in an organisation in the optical sector?	Choose an item.
Please declare the interest here:	

D. Are you (or a connected person) employed as a consultant, director or advisor by an organisation which advises the GOC or organisations / individuals in the optical sector?	Choose an item.
Please declare the interest here:	

E. Do you (or a connected person) own (or have significant control over) any organisation in the optical sector?	Choose an item.
Please declare the interest here:	

F. Do you (or a connected person) hold any shareholdings or investments of any company either regulated by the GOC or contracted to work with the GOC?	Choose an item.
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Please declare the interest here:

G. Do you (or a connected person) hold office, are appointed to a position in, are a member of or affiliated to a professional body, specialist society, charity etc related to the optical sector?	Choose an item.
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Please declare the interest here:

H. Do you (or a connected person) hold office, are appointed to a position in, are a member of or affiliated to a professional body, specialist society, charity which is related to your role?	Choose an item.
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Please declare the interest here:

I. Are you (or a connected person) associated with an educational institution which is currently accredited by the GOC (or is anticipating applying for accreditation), including UK, overseas and online providers?	Choose an item.
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Please declare the interest here:

J. Are you (or a connected person) acting as a lay / non-expert character witness on behalf of a registrant who is appearing before the GOC Fitness to Practice (FTP) Committee?	Choose an item.
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Please declare the interest here:

K. Are you (or a connected person or organisation in which you are a Responsible Officer) subject to investigation by the GOC relating to FTP concerns which have been referred to the FTP Committee?	Choose an item.
Please declare the interest here:	

L. Are you (or a connected person or organisation in which you are a Responsible Officer) subject to investigation by a professional body relating to disciplinary processes?	Choose an item.
Please declare the interest here:	

M. Do you (or a connected person) hold any other interest which may be relevant and is not covered by the above, such as might lead a fair-minded observer, having considered the facts, to conclude that there is a real possibility that such an interest might influence your judgment?	Choose an item.
Please declare the interest here:	

By signing this declaration I confirm that:

- I have read and understood the GOC Management of Interests policy;
- I have sought guidance from the Governance Team where applicable;
- the declarations made above are accurate to the best of my knowledge; and
- should my declarations change I will notify the GOC at the earliest possible opportunity.

Signature: _____

Date: _____

Annex two - Management of Interests (Mol) Policy – Equality Impact Assessment

Step 1: Scoping the EIA

Name of the policy/function: Management of Interests (Mol) policy

Assessor: Lisa Harmshaw (Governance Manager)

Date EIA started: 28 March 2016

Date EIA completed: 18 April 2016

Date of next EIA review: June 2017

Purpose of EIA: To review the draft Mol policy prior to the trial beginning.

Q1. Has a screening assessment been used to assess which of the equality groups the policy is relevant to?

No, an EIA screening has not been completed prior to this full EIA.

Q2. What are the main aims, purpose and outcomes of the policy? You should be clear about the policy proposal: what do you hope to achieve by it? Who will benefit from it?

Aims: The policy supports the principles of transparency and probity to maintain confidence in the GOC and protect our employees and members from any appearance of impropriety, to ensure that those who work for and on behalf of us make decisions in the best interests of the public. This means decision making is independent, fair and free from improper influence and bias. We are responsible for promoting and setting standards for optometrists, dispensing opticians, optical students and optical businesses as well as making decisions about whether their fitness to practise has been impaired. Therefore our conduct both as an organisation and as individuals must reflect the same high standards.

Purpose and Outcome: The policy has been developed to ensure well defined and transparent arrangements for managing conflicts of interest, both real and perceived, in order to demonstrate to the public and stakeholders that our decisions are made in the best interests of the public.

Desired outcomes include:

- having a robust method for declaring interests of employees and members based on the principles of transparency and probity;
- the ability to demonstrate to the public and stakeholders that our decisions are made in the best interests of the public;
- clear guidance on what interests must be declared, how and when to declare interests, how to identify and manage a conflict of interest and how interests will be published;
- improved understanding on the different types of interest and how these might affect individuals and their GOC role;
- managing interests in a staged manner, as set out in the policy, in order to determine appropriate and proportionate remedies in the instance of actual or perceived conflicts; and
- provision of guidance on what to do if non-compliance is suspected and the potential consequences of non-compliance with the policy.

Who will benefit:

- those who it applies to (employees and members) – in order to protect them from any appearance of impropriety, to ensure that those who work for and on behalf of us make decisions in the best interests of the public and by ensuring they have well defined and clear guidance on what interests must be declared, how and when to declare an interest, how to identify and manage a conflict of interest, and understanding how the GOC will publish interests; and
- the general public and stakeholders – to provide assurance that the decisions we make are made transparently and in the best interests of the public.

Q3. Which aspects/activities of the policy are particularly relevant to equality? At this stage you do not have to list possible impacts, just identify the areas.

Activity/Aspect
• Fairness
• Clarity and accessibility
• Scope

Q4. Gathering the evidence

1.5. List below available data and research that will be used to determine impact on the different equality groups

Available evidence – used to scope and identify impact
<p>We have reviewed a number of policies from our fellow healthcare regulators including the General Medical Council (GMC), Nursing and Midwifery Council (NMC), General Pharmaceutical Council (GPhC) and the General Osteopathic Council (GOsC). We have also reviewed a number of non-related policies including from the Human Tissue Authority, Public Health England and the Charity Commission.</p> <p>In addition, we have taken into account guidance from the Charity Commission on conflicts of interest, the Good Governance code for the voluntary and community sector and guidance issued from the Institute of Chartered Secretaries and Administrators (ICSA: the governance institute) which was specifically written for charity trustees.</p>

1.6. Q5. Evidence gaps

1.7. Do you require further information to gauge the probability and/or extent of impact?

Employee feedback is potentially an area of further information required to assess the impact. Their feedback is planned to be received during the trial period..

1.8. Q6. Involvement and consultation

<p>Consultation that has taken place, who with, when and how: The Senior Management Team (21 March 2016); Management Forum (4 April 2016); Audit and Risk Committee (25 April 2016) and Council (11 May 2016).</p> <p>In addition we have sought feedback from the Council Governance Champions (Gareth Hadley and Scott Mackie) which has been incorporated into the draft presented to ARC.</p> <p>The 12 month trial will be used as an opportunity to engage and seek feedback from employees (especially as they have not previously been subject to this policy) and members.</p>
<p>Consultation has taken place with the following stakeholders: No external consultation is currently scheduled. We have considered how best to consult with employees and SMT have decided that a trial would be the best way to identify any impacts of the policy and collate employee feedback.</p>
<p>Summary of the feedback from consultation: feedback received from each of the meetings attended has been carefully considered and addressed in subsequent versions of the policy. In addition, specific details of what each meeting commented on is documented in annex one of the ARC paper ARC27(16).</p> <p>Management Forum (4 April 2016) raised the following points:</p> <ul style="list-style-type: none"> • Will all employee disclosures (rather than just SMT) be published on the website? Is this in line with data protection? • Is it against someone's human rights to disclose being a member of a political party? Or a member of a trade union? • Are all of the items asked to be declared relevant for employees? • Is there a difference between disclosures required from employees in a decision-making level to front line employees? Is that Heads of or SMT? • Would all interests/declarations be published?
<p>Link to any written record of the consultation to be published alongside this assessment: N/A</p>
<p>How engagement with stakeholders will continue: We will report progress to the SMT and ARC as the trial progresses if any impacts are identified.</p>

Step 2: Assessing impact and opportunities to promote equality

Q7: Using the evidence you have gathered what if any impacts can be identified.

Step 3: Strengthening your policy

What can be done to remove or reduce any impact identified? Please use the table below to document your strengthening actions.

Activity/ Aspect	Potential/actual Impact	Strengthening actions to remove or reduce impact. For actions, include timeframes.
Fairness	Detrimental impact on job role as a result of exclusion due to a conflict	<ul style="list-style-type: none"> • Policy details various options to remedy a conflict which go beyond exclusion. (see 7.8 in the policy) • Policy includes a meeting to discuss potential conflicts, if required. (see 7.4 in the policy)
	Process of determining whether a declared interest is a conflict might not be fair	<ul style="list-style-type: none"> • The approach to managing interests is undertaken in a staged manner (see 1.5 in the policy). • Three people are involved in the decision regarding potential conflicts – the individual making the declaration, their line manager / Chair and the Head of Governance (see 7.4 in the policy) • There is an appeal process (see 7.4 in the policy)
	Inadequate training means process might not be fair	<ul style="list-style-type: none"> • The policy owner will use the 12 month trial period to engage and seek feedback from those affected by this policy. This may include attendance at committee meetings, team meetings, staff meetings and individual or adhoc guidance. Feedback will be recorded in order to inform the development of a final policy following the end of the trial. On-going consultation, due completion on: 17 June 2017. • The draft policy has been communicated to all managers and they have been asked to advise employees within their teams of the policy and direct any queries to the Governance Team.
	Risk that individuals may fail to make a declaration to avoid being 'kept out of the loop' or excluded from decisions	<ul style="list-style-type: none"> • Compliance with the policy is mandatory. (see 8.1 in the policy) • Policy details various options to remedy a conflict, including holding a meeting to discuss matters. (see 7.4 and 7.8 in the policy) • Engagement at the early stages during the trial period will help to embed trust in the process and understanding about the process (see paragraphs 30-31 of the cover paper for the communications plan).

Activity/ Aspect	Potential/actual Impact	Strengthening actions to remove or reduce impact. For actions, include timeframes.
Clarity and accessibility	Individuals do not make declarations because they are unsure of how to do so / don't know if they need to	<ul style="list-style-type: none"> • Policy has clear format with 'checklist questions' – these will be consulted on to check they are clear. (see 5.3 in the policy) Owner: Lisa Harmshaw, due: during trial. • The checklist will be reviewed after the trial to see patterns of unnecessary declarations made. Owner: Lisa Harmshaw, due: after trial. • Use of a standardised form for all declarations which will be published on the GOC website, intranet and H drive. (See Appendix 3 of the policy) • Communication to all employees and members will include attendance at meetings and face to face guidance opportunities during the trial period. (see paragraph 30 of the cover paper). Owner: Lisa Harmshaw Due: during trial
	Lack of awareness of the policy	<ul style="list-style-type: none"> • Policy will be published on the GOC website, intranet and as part of the 'Member Focus' Bulletin. Owner: Lisa Harmshaw. Due: Council approval. • All Council and Committee meetings include an opportunity at the start of each meeting to declare any interests. No further action required. • The contracts and procurement policy should cross reference to this policy and the process include an opportunity to declare any interests. Owner: Finance. Due: Q4 2016/17. • Communication to all employees and members will include Governance attendance at meetings and face to face opportunities during the trial period. (see paragraph 30 of the cover paper). Owner: Lisa Harmshaw Due: during trial
Scope	Decisions to restrict activity due to a conflict might be influenced by unconscious biases	<ul style="list-style-type: none"> • Those involved in deciding how a conflict might be remedied will undertake training in unconscious bias. Owner: Philippa Mann Due: during trial
	Scope of declaring interests may be disproportionate to the conflict that may come from different levels of responsibility in roles	<ul style="list-style-type: none"> • Policy to be reviewed with on-going consultation to check scope is proportionate to job role. Feedback received to be presented to SMT. – Owner: Lisa Harmshaw, Due: during trial

Activity/ Aspect	Potential/actual Impact	Strengthening actions to remove or reduce impact. For actions, include timeframes.
Right to be free from discrimination	Breach of an individual's human rights on the basis of discrimination because of political opinion	<ul style="list-style-type: none"> Recommendation to remove the political question. Owner: Lisa Harmshaw. Completed, for review by ARC and Council.
Data Protection	Publishing of information may breach data protection rights of individuals	<ul style="list-style-type: none"> Currently, the policy states that decision-makers' declarations will be published (for employees this is case examiners, SMT, Heads of, those named in the Scheme of Delegation and budget holders). Other employee declarations will be held in HR and will not be published. There is concern that only those with their names in the public domain should have their declarations disclosed. ARC and Council to review this query, alongside Privacy Impact Assessment. Any information provided will only be used for the clear purpose of managing interests that might have a conflict with their role, it will not be used for any other purpose. Information Governance impact screening completed by Robert Mannall, 06 April 2016.

Q8: What can you do further to maximise opportunities to further promote equality. Please document below.

We will continue to monitor the impact of the policy during the trial period (against the protected characteristic groups) which will be used to inform future iterations of the policy.

Step 4: Monitoring and review

Q10. What monitoring mechanisms do you have in place to assess the actual impact of your policy?

The 12 month trial will be used to monitor feedback and any impacts. The Audit and Risk Committee (ARC) is responsible for annually reviewing the Register of Interests. They are expected to undertake this in July 2016. We will provide a brief update to the ARC at this meeting to advise that the trial has started and to highlight any issues which may have arisen. In addition, we will update the ARC at future meetings during the trial, as necessary.

Please provide a review date to complete an update on this assessment.

Date: June 2017